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June 23, 1947.

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Honorable James H. Webb,  
Director, Bureau of the Budget,  
Washington, D. C.

My dear Mr. Webb:

This is in response to your request for the views of the Department of Justice concerning the enclosed proposed recommendation of the Navy Department relative to an accompanying draft of a proposed bill "To amend Section 805 of the Communications Act of 1934 in order to increase the security of the United States and for other purposes."

The bill would authorize the War and Navy Departments, and "such other governmental agencies" of the government as may be designated by the President as national defense and security agencies, to intercept, receive, and utilize in the interest of national security, under such rules and regulations as may be approved by the President, the contents of any communication which is transmitted by wire or radio.

The proposed letter of the Navy Department states that existing law (47 U.S.C. 805) protects the secrecy of communications which possibly contain matter detrimental to the safety of the Nation, that the need for remedial legislation has been emphasized in a congressional report on the investigation of the attack on Pearl Harbor, and recommends the enactment of the proposed bill.

The authority contained in the proposal is obviously of such a nature that the utmost discretion would be required in its exercise, and it is believed that it would be inadvisable to place it in the hands of an indefinite and broad class of agencies as the present language of the proposed bill might permit. Hence, it is suggested that the agencies which would exercise the authority should be specifically designated in the bill, thus removing any doubt as to their identity. If later it should be considered advisable to extend the authority to other specific agencies, the legislation could be amended accordingly.

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It is suggested, therefore, that the proposed bill be amended by striking out everything after the words "provided further" and substituting the following in lieu thereof:

"That this section shall not apply to the interception, receipt, or utilization in the interests of national security, by the Military Intelligence Division of the War Department, the Office of Naval Intelligence of the Navy Department, or the Federal Bureau of Investigation of the Department of Justice, of the contents of any communication by wire or radio under such rules and regulations as may be approved by the President."

Sincerely yours,

Douglas W. McGregor,  
The Assistant to the Attorney General.